IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 18TH JULY 2007 / 27TH ASHADHA 1929

WP(C).No. 20562 of 2005(W)

{IN I.A.NO.887/2003 IN O.S.NO.167/2003 OF THE MUNSIFF-MAGISTRATECOURT, PERAMBARA}

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PETITIONER:

CHEKKOTTY, S/O. KORAPPEN,
AGED 72 YEARS, AGRICULTURIST, EDAKKUDY,
THARAMMAL HOUSE, VILAYATTOOR AMSOM, DESOM,
IRINGATH P.O., KOYILANDY TALUK,
KOZHIKODE DISTRICT.

BY ADVS. SRI.N.L.KRISHNAMOORTHY
SRI.K.LAKSHMINARAYANAN
SMT.SATHYA SHREEPRIYA

RESPONDENTS:

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1. SANKARA KURUP, S/O.KRISHNAN NAMBIAR,
AGED 58 YEARS, KURUKKAN KUNIYIL HOUSE,
MUYIPPOTH AMSOM, DESOM, KOYILANDY TALUK,
KOZHIKODE DISTRICT.

2. JANU, D/O. POKKINI,
AGED 51 YEARS, KURUKKAN KUNIYIL HOUSE,
MUYIPPOTH AMSOM, DESOM, KOYILANDY TALUK,
KOZHIKODE DISTRICT.

BY ADV. SRI.T.A.RAMADASAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS:

EXT.P1: TRUE COPY OF THE DOCUMENT DATED 10.06.46.

EXT.P2: TRUE COPY OF THE DOCUMENT NO.1303/03 DATED 20.06.03.

EXT.P3: TRUE COPY OF THE DOCUMENT NO.1284/94 DATED 23.06.04.

EXT.P4: TRUE COPY OF THE ORDER DATED 19.12.03 IN IA 887/03 IN O.S.167/03 ON THE FILE OF THE MUNSIFF MAGISTRATE COURT, PERAMBRA.

EXT.P5: TRUE COPY OF THE JUDGMENT DATED 28.03.05 IN CMA 1/04 ON THE FILE OF THE SUBORDINATE JUDGE, KOYILANDY.

RESPONDENTS' EXHIBITS: NIL

//true copy//

P.S. To Judge

SK/-

PIUS C. KURIAKOSE, J.

W.P.(C) No.20562 of 2005 W

Dated this the 18th day of July, 2007.

JUDGMENT

The order of dismissal of application for temporary injunction, passed by the learned Munsiff-Magistrate, Perambra, under Ext.P4 and confirmed by the learned Subordinate Judge, Quilandy under Ext.P5 judgment, is under challenge in this writ petition filed under Article 227 of the Constitution of India, at the instance of the plaintiff.

2. The strenuous submissions of Sri.Lakshminarayanan notwithstanding, I do not find any ground for invoking the supervisory jurisdiction under Article 227 of the Constitution of India, so as to interfere either with Ext.P4 or Ext.P5. The suit is of the year 2003.

3. Under the above circumstances, the writ petition itself will stand disposed of, issuing the following directions:

4. The learned Munsiff-Magistrate, Perambra will try and dispose of O.S.No.167/2003, without being influenced, in any manner, by the findings and observations made in Ext.P5 by the Sub Judge, Quilandy and his own findings and observations in

Ext.P4 interlocutory order. The suit will be decided on the basis of the evidence at trial, treating the findings and observations in Exts.P4 and P5 as provisional only. The learned Munsiff-Magistrate will include the suit in special list and dispose of the same without further delay.

Sd/-
(PIUS C. KURIAKOSE)
JUDGE

sk/

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